

**R865. Tax Commission, Auditing.**

**R865-6F. Franchise Tax.**

**R865-6F-33. Taxation of Telecommunications Pursuant to Utah Code Ann. Sections 59-7-302 through 59-7-321.**

~~[A-]~~ (1) Definitions.

~~[1-]~~ (a) "Call" means a specific telecommunications transmission as described in ~~[A-6]~~ Subsection (1)(f).

~~[2-]~~ (b) "Channel termination point" means the point at which information can enter or leave the telecommunications network.

~~[3-]~~ (c) "Communications channel" means a communications path, which can be one-way or two-way, depending on the channel, between two or more points. The path may be designed for the transmission of signals representing human speech, digital or analog data, facsimile, or images.

~~[4-]~~ (d) "Outerjurisdictional property" means tangible personal property, such as orbiting satellites, undersea transmission cables and the like, that are owned or rented by the taxpayer and used in a telecommunications business, but that are not physically located in any particular state.

~~[5-]~~ (e) "Private telecommunications service" means a dedicated telephone service that entitles the subscriber to the exclusive or priority use of a communications channel or groups of communications channels from one or more channel termination points to another channel termination point.

~~[6-]~~ (f) "Telecommunications" means the electronic transmission of voice, data, image, and other information through the use of any medium such as wires, cables, electromagnetic waves, light waves, or any combination of those or similar media now in existence or that might be devised, but telecommunications does not include the information content of any such transmission.

~~[7-]~~ (g) "Telecommunications service" means providing telecommunications, including services provided by telecommunication service resellers, for a charge and includes telephone service, telegraph service, paging service, personal communication services and mobile or cellular telephone service, but does not include electronic information service or Internet access service.

~~[B-]~~ (2) Apportionment and Allocation.

~~[1-]~~ (a) A corporation engaged in the business of telecommunications that is taxable both within and without this state, shall allocate and apportion its net income as provided in this rule. All items of nonbusiness income shall be allocated pursuant to the provisions of Section 59-7-306.

~~[2-]~~ (b) All business income shall be apportioned to this state by multiplying that income by the apportionment percentage. The apportionment percentage is determined by adding the taxpayer's receipts factor, property factor and payroll factor and dividing that sum by three. If one of the factors is missing, the remaining factors are added and that sum is divided by two. If two of the factors are missing, the remaining factor is the apportionment percentage. A factor is missing if both its numerator and denominator are zero.

~~[3-]~~(c) The fraction by which business income shall be apportioned to the state shall be determined in accordance with rule R865-6F-8(3) and (6). Except as otherwise provided in this rule, the property factor shall be determined in accordance with ~~[Tax Commission]~~

~~[rule]~~ R865-6F-8~~(G)~~(7), the payroll factor in accordance with ~~[rule]~~ R865-6F-8~~(H)~~(8) and the sales factor in accordance with ~~[rule]~~ R865-6F-8~~(I)~~(9).

~~[C-]~~ (3)(a) Property Factor.

~~[I-]~~ (b) Outerjurisdictional property that is used by a taxpayer in providing a telecommunications service shall be attributed to this state based on the ratio of property within this state used in providing that service, to property everywhere used in providing the service, exclusive of property not located in any state. The term "property" as used herein refers to property includable in the property factor of the Utah apportionment fraction as defined in Tax Commission rule R865-6F-8~~(G)~~(7).

~~[D-]~~ (4) Sales Factor Numerator.

~~[I-]~~ (a) The following sales and receipts from telecommunications service other than interstate or international private telecommunications service, shall be included in the Utah sales and receipts numerator:

~~[a-]~~ (i) receipts derived from charges for providing telephone "access" from a location within Utah. "Access" means that a call can be made or received from a point within this state. An example of this type of receipt is a monthly subscriber fee billed with reference to equipment located in Utah;

~~[b-]~~ (ii) receipts derived from charges for unlimited calling privileges, if the charges are billed by reference to equipment located in Utah;

~~[c-]~~ (iii) receipts derived from charges for individual toll calls that originate and terminate in Utah;

~~[d-]~~ (iv) receipts derived from charges for individual toll calls that either originate or terminate in Utah and are billed by reference to a customer or equipment located in Utah;

~~[e-]~~ (v) receipts derived from any other charges if the charges are not includable in another state's sales factor numerator under that state's law, and the customer's billing address is in Utah.

~~[2-]~~ (b) Gross receipts derived from providing interstate and international private telecommunications services shall be determined as follows:

~~[a-]~~ (i) If the segment of the interstate or international channel between each termination point is separately billed, 100 percent of the charge imposed at each termination point in this state and for service in this state between those points is includable in the Utah sales factor. In addition, 50 percent of the charge imposed for service between a channel termination point outside this state and a point inside the state shall be included in the Utah sales factor. For purposes of this paragraph, termination points shall be measured by the nearest termination point inside the state to the first termination point outside the state.

~~[b-]~~ (ii) If each segment of the interstate or international channel is not separately billed, the Utah sales shall be the same portion of the interstate or international channel charge that the number of channel termination points within this state bears to the total number of channel termination points within and without this state.

**KEY: taxation, franchise, historic preservation, trucking industries**